In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-38449 of 2007

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Date of decision:12.7.2007

Gurdev Singh alias Jhajji alias Gurdev Ram and another

.....Petitioners

v.

State of Punjab

.....Respondent

....

Present: Mr. H.S. Rakhra, Advocate for the petitioners.

Mr. I.P.S. Sidhu, Senior Deputy Advocate General, Punjab for the respondent-State.

.....

S.S. Saron, J.

Heard learned counsel for the parties.

The petitioners seek pre-arrest bail in a case registered against them for the offence under Section 15 of the NDPS Act, 1985 at Police Station, Garshankar, District Hoshiarpur.

ASI Jaswinder Singh along with other Police officials were patrolling on their private scooters at Bus Stand Satnaur. A secret information was received that the petitioners Gurdev Singh alias Jhajji (petitioner No.1) and his brother Kewal Krishan (non-petitioner) and their nephew Gopi alias Gurpreet Singh (petitioner No.2) were indulging in nefarious activities. Gurdev Singh alias Jhajji (petitioner No.1) was bringing large quantity of poppy husk in his Esteem car. The same was ready to be supplied and the accused were going somewhere from there. If a raid was conducted much quantity of contraband could be recovered. The

police party reached Badesron and the vehicle was signalled to stop. On seeing the Police party two young persons fled away from the driver seat and from the other side of the car. The persons who had run away were identified by HC Balwinder Singh as Gurdev Singh alias Jhajji (petitioner No.1) and Gopi (petitioner No.2), who were earlier known to HC Balwinder Singh. The person sitting in the vehicle, namely, Kewal Krishan (non petitioner) was apprehended. The car was searched and in front of the back seat on the foot rest one white colour plastic bag was found. It was tied with a string. The bag was opened and checked and poppy husk was recovered. The boot of the car was checked and from there three plastic bags, two of blue colour and one of white colour were recovered. The same were also found to contain puppy husk. In all 30 Kg. of poppy husk was found in each bag and 250 grams from each was taken as sample.

Learned counsel for the petitioners has submitted that the identification of the petitioner is doubtful. The identification by HC Balwinder Singh, who is the police official cannot be believed. The petitioners are not known to HC Balwinder Singh. It is submitted that no independent witness has been joined. The accused, who was apprehended at the spot, had also not named the petitioners. Therefore, the present petitioners are being falsely implicated on mistaken identification. The car from which the recovery is said to have been effected does not belong to the petitioners.

In response, learned Senior Deputy Advocate General, Punjab for the State has submitted that the petitioners were coming in a car which was having contraband. They fled away from the scene and were identified by HC Balwinder Singh.

I have given my thoughtful consideration to the contentions of the learned counsel for the parties. The petitioners are alleged to have fled away from the car from which four bags containing 30 Kg. each of poppy husk is stated to have been recovered. The petitioners on seeing the police party had fled from the place. The car was used by them for transporting contraband. The statement of Jagjit Singh, who is the sister's son of Kewal Krishan (non-petitioner) was recorded by the Police, who stated that the car was borrowed by the petitioners from him. The custody of the petitioners would be required for carrying out effective investigation. Besides, in view of the provisions of Section 37 of the NDPS Act no case is made out for grant of anticipatory bail.

Consequently, the criminal miscellaneous petition is dismissed.

July 12, 2007. **(S.S. Saron)**
Judge

hsp

NOTE: Whether to be referred to the Reporter or not:No